

By: Shapleigh

S.B. No. 618

A BILL TO BE ENTITLED

AN ACT

relating to disclosures in connection with certain home loans;  
providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 343, Finance Code, is amended by adding Sections 343.102 and 343.103 to read as follows:

Sec. 343.102. DISCLOSURE IN CONNECTION WITH CERTAIN HOME LOANS. (a) For a home loan with an interest rate of 12 percent or greater a year, not later than 48 hours before the date of closing, the lender shall provide to the borrower:

(1) a statement regarding the value of mortgage counseling before taking out a home loan;

(2) a list of the nearest available housing counseling agencies approved by the United States Department of Housing and Urban Development;

(3) a list of other resources where mortgage information can be found, including toll-free telephone numbers and online resources;

(4) a statement of the loan fees to be paid by the borrower; and

(5) other disclosures required by the finance commission, including an official notice regarding high-cost home loans.

(b) A disclosure of fees under Subsection (a)(4) must be in

1 a form substantially similar to the documents that will be used for  
2 the closing.

3 (c) If, before closing, the total amount of fees disclosed  
4 under Subsection (a)(4) changes by an amount that exceeds the  
5 lesser of \$400 or one-half percent of the amount of the loan, the  
6 lender shall provide the borrower a written notice of the revised  
7 amount. The loan may not be closed before 48 hours after the date of  
8 the notice provided under this subsection.

9 (d) If the home loan was negotiated primarily in Spanish,  
10 the borrower shall be provided a Spanish translation of the  
11 information required to be provided under this section.

12 (e) The borrower may modify or waive the waiting period  
13 provided by this section, if the borrower determines that the loan  
14 is needed to meet a personal financial emergency, by providing the  
15 lender a dated, written, and signed statement that describes the  
16 emergency and specifically modifies or waives the waiting period.  
17 The statement under this subsection may not be on a form provided by  
18 the lender or on the lender's behalf.

19 Sec. 343.103. PENALTIES FOR FAILURE TO PROVIDE DISCLOSURE.  
20 A person who knowingly and wilfully violates Section 343.102 is  
21 liable to the aggrieved borrower for:

- 22 (1) the actual damages caused by the violation;  
23 (2) punitive damages not to exceed \$10,000 in an  
24 action brought by the aggrieved borrower; and  
25 (3) court costs.

26 SECTION 2. The change in law made by this Act applies only  
27 to a loan closed on or after the effective date of this Act. A loan

1 closed before the effective date of this Act is governed by the law  
2 in effect when the loan is closed, and the former law is continued  
3 in effect for that purpose.

4 SECTION 3. This Act takes effect September 1, 2005.